

ALLIED BANKING CORPORATION, PETITIONER, VS. COURT OF APPEALS AND JOSELITO Z. YUJUICO, RESPONDENTS.

G.R. No. 85868. October 13, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

What started as a simple collection suit and which developed into an intricate question of procedure is the focus of this petition for review on certiorari.

The present petition seeks the reversal of the decision of the Court of Appeals in CA-G.R. SP No. 14759 dated September 5, 1988 entitled "Joselito Z. Yujuico vs. Hon. Domingo D. Panis, RTC Judge of Manila Branch LXI and Allied Banking Corp.,"[1] and the resolution dated November 9, 1988 denying petitioner's motion for reconsideration of the said decision.[2]

The antecedent facts of the case are as follows:

On April 1, 1976, private respondent Joselito Z. Yujuico obtained a loan from the General Bank and Trust Company (GENBANK) in the amount of Five Hundred Thousand pesos (P500,000.00), payable on or before April 1, 1977. As evidence thereof, private respondent issued a corresponding promissory note in favor of GENBANK. At the time private respondent incurred the obligation, he was then a ranking officer of GENBANK and a member of the family owning the controlling interest in the said bank.

On March 25, 1977, the Monetary Board of the Central Bank issued Resolution No. 675 forbidding GENBANK from doing business in the Philippines. This was followed by Resolution No. 677 issued by the Monetary Board on March 29, 1977 ordering the liquidation of GENBANK.

It appears that in a Memorandum of Agreement dated May 9, 1977 executed by and between Allied Banking Corporation (ALLIED) and Arnulfo Aurellano as Liquidator of GENBANK, ALLIED acquired all the assets and assumed the liabilities of GENBANK, which includes the receivable due from private respondent under the promissory note.

Upon failing to comply with the obligation under the promissory note, petitioner ALLIED, on February 7, 1979, filed a complaint against private respondent for the collection of a sum of money. This case was docketed as Civil Case No. 121474 before the then Court of First Instance of Manila (now Regional Trial Court).

Sometime in 1987 and in the course of the proceedings in the court below, private respondent, then defendant in the court below, filed a Motion to admit Amended/Supplemental Answer and Third-Party Complaint. Private respondent sought to implead the Central Bank and Arnulfo Aurellano as third-party defendants. It was alleged in the third-party complaint that by reason of the tortious interference by the Central Bank with the affairs of GENBANK, private respondent was prevented from performing his obligation under the loan such that he should not now be held liable thereon.

Acting on the motion and on the opposition filed thereto, the Regional Trial Court through the Hon. Judge Felix B. Mintu issued an order dated August 13, 1987 denying the admission of the third-party complaint but admitting private respondent's amended/supplemental answer.

When the case was re-raffled to Branch 61 of the Regional Trial Court of Manila, presiding Judge Domingo D. Panis, on February 29, 1988, reiterated the order denying the admission of private respondent's third-party complaint and admitting the amended/supplemental answer. When both parties filed their respective motions for partial reconsideration, the Hon. Judge Panis issued an order dated April 18, 1988 denying both motions.

Thereupon, private respondent filed with the Court of Appeals a petition for certiorari[3] on June 1, 1988 questioning the orders of Hon. Judge Panis dated February 29, 1988 denying private respondent's motion to admit third-party complaint, and April 18, 1988 denying private respondent's motion for partial reconsideration of the February 29, 1988 order.

On September 5, 1988, the Court of Appeals rendered the assailed decision, the dispositive portion of which reads:

"WHEREFORE, finding grave abuse of discretion on the part of the respondent Judge, the Order of February 29, 1988 as well as that of April 18, 1988 insofar as it denies petitioner's motion to admit his third party complaint, is hereby declared null and void. Respondent judge is hereby ordered to admit the proposed third-party complaint. Cost de officio.

SO ORDERED."[4]

A motion for reconsideration thereof filed by petitioner was denied in a resolution dated November 9, 1988.

Petitioner assigns the following errors:

I

RESPONDENT COURT OF APPEALS SERIOUSLY ERRED IN HOLDING THAT HON. JUDGE PANIS COMMITTED GRAVE ABUSE OF DISCRETION IN DENYING ADMISSION TO PRIVATE RESPONDENT'S THIRD-PARTY COMPLAINT, CONSIDERING THAT:

A. PRIVATE RESPONDENT'S PROPOSED THIRD-PARTY COMPLAINT DOES NOT STATE A CAUSE OF ACTION IN RESPECT OF PETITIONER'S CLAIM.

B. THE ALLEGED CAUSE OF ACTION SET FORTH IN PRIVATE RESPONDENT'S PROPOSED THIRD-PARTY COMPLAINT HAS ALREADY PRESCRIBED.

C. THE ADMISSION OF PRIVATE RESPONDENT'S PROPOSED THIRD-PARTY COMPLAINT WILL ONLY CAUSE FURTHER UNNECESSARY DELAY IN THE DISPOSITION OF THE CASE OF PETITIONER AGAINST PRIVATE RESPONDENT.

II

CONTRARY TO THE RULING OF RESPONDENT COURT OF APPEALS, THE RULE PRESCRIBING THAT DEFENSES NOT RAISED IN THE COURT BELOW CANNOT BE RAISED FOR THE FIRST TIME ON APPEAL IS NOT APPLICABLE TO SPECIAL CIVIL ACTIONS OF CERTIORARI.[5]

From the foregoing assignment of errors, petitioner would like Us to resolve the following issues: (a) Is there a proper ground to admit the third-party complaint?; and (b) assuming that there is, has the cause of action under the third-party complaint prescribed?

A third-party complaint is a procedural device whereby a "third-party" who is neither a party nor privy to the act or deed complained of by the plaintiff, may be brought into the case with leave of court, by the defendant, who acts as third-party plaintiff to enforce against such third-party defendant a right for contribution, indemnity, subrogation or any other relief, in respect of the plaintiff's claim.[6] The third party complaint is actually independent of, separate and distinct from the plaintiff's complaint. Such that, were it not for this provision of the Rules of Court, it would have to be filed separately from the original complaint by the defendant against the third-party.[7]

After going through the records of this case, this Court finds that the third-party plaintiff's claim is premised not only on what was alleged as the tortious interference by the third-party defendants with the affairs of GENBANK. More importantly, attention should have been focused on the fact that this allegation is wedded to a decision rendered by the Court of Appeals in CA-G.R. CV No. 03642 which affirmed the decision of the Regional Trial Court in Special Proceedings No. 107812.[8] We quote the pertinent portion of the affirmed decision, to wit:

"Based on the foregoing facts, the Court finds the liquidation of GBTC as embodied in Annex "A" and Annex "B" of the petition, which merely adopted the bid of the Lucio Tan group as the liquidation plan of GBTC, as plainly arbitrary and made in bad faith and therefore the same must be annulled and set aside. xxx." [9] (Emphasis supplied).

This decision, which declared as null and void the liquidation of GENBANK, prompted private respondent herein to file a third-party complaint against the Central Bank and Arnulfo Aurellano on the theory that he has a right to proceed against them in respect of ALLIED's claim. In the words of private respondent, he "[s]eeks to transfer liability for the default imputed against him by the petitioner to the proposed third-party defendants because of their tortious acts which prevented him from performing his obligations.[10] Thus, if at the outset the issue appeared to be a simple maker's liability on a promissory note, it became complex by the rendition of the aforesaid decision.

As early as *Capayas vs. Court of First Instance of Albay*, [11] this Court had already outlined the tests to determine whether the claim for indemnity in a third-party claim is "in respect of plaintiff's claim." They are: (a) whether it arises out of the same transaction on which the plaintiff's claim is based, or whether the third-party's claim, although arising out of another or different contract or transaction, is connected with the plaintiff's claim; (b) whether the third-party defendant would be liable to the plaintiff or to the defendant for all or part of the plaintiff's claim against the original defendant, although the third-party defendant's liability arises out of another transaction; or (c) whether the third-party defendant may assert any defense which the third-party plaintiff has, or may have against plaintiff's claim.[12]

While the claim of third-party plaintiff, private respondent herein, does not fall under test (c), there is no doubt that such claim can be accommodated under tests (a) and (b) abovementioned. Whether or not this Court agrees with the petitioner's assertion that the claim does not "arise out of the same transaction on which the plaintiff's claim is based," it cannot be denied that the third-party's claim (although arising out of another or different contract or transaction) is connected with plaintiff's claim. The judgment of the Court of Appeals in CA-G.R. CV No. 03642 is the substantive basis of private respondent's proposed third-party complaint. Put differently, there is merit in private respondent's position that if held liable on the promissory note, they are seeking, by means of the third-party complaint, to transfer unto the third-party defendants liability on the note by reason of the illegal liquidation of GENBANK which, in the first place, was the basis for the assignment of the promissory note. If there was any confusion at all on the ground/s alleged in the third-party complaint, it was the claim of third-party plaintiff for other damages in addition to any amount which he may be called upon to pay under the original complaint.[13] While these allegations in the proposed third-party complaint may cause delay in the disposition of

the main suit, it cannot, however, be outrightly asserted that it would not serve any purpose.

It is one thing to say that a third-party defendant may be held liable to indemnify or reimburse the third-party plaintiff "in respect of plaintiff's claim," but it is quite another to state that a third-party defendant may be held liable to a third-party plaintiff. The second instance may not carry with it the necessary connection to the main cause of action and, therefore, is not allowed by the Rules for it introduces a controversy that is entirely foreign to and distinct from the main cause. The first instance is allowable and should be allowed if it will help in clarifying in a single proceeding the multifarious issues involved arising from a single transaction.

It is this Court's pronouncement that the first instance is applicable in the present situation.

As to the issue of prescription, it is the position of petitioner that the cause of action alleged in the third-party complaint has already prescribed.[14] Being founded on what was termed as "tortious interference," petitioner asserts that under the applicable provisions of the Civil Code on quasi-delict[15] the action against third-party defendants should have been filed within four (4) years from the date the cause of action accrued. On the theory that the cause of action accrued on March 25, 1977, the date when the Monetary Board ordered GENBANK to desist from doing business in the Philippines, petitioner maintains that the claim should have been filed at the latest on March 25, 1981.[16] On the other hand, private respondent relies on the "Doctrine of Relations" or "Relations Back Doctrine"[17] to support his claim that the cause of action as against the proposed third-party defendant accrued only on December 12, 1986 when the decision in CA-G.R. CV No. 03642 became final and executory. Thus, it is contended that while the third party complaint was filed only on June 17, 1987, it must be deemed to have been instituted on February 7, 1979 when the complaint in the case was filed.

There can be no question in this case that the action for damages instituted by private respondent arising from the quasi-delict or alleged "tortious interference" should be filed within four (4) years from the day the cause of action accrued.[18]

In the case of *Español vs. Chairman, Philippine Veterans Administration*,[19] this Court ruled that it is from the date of the act or omission violative of the right of a party when the cause of action arises and it is from this date that the prescriptive period must be reckoned.

Thus, while technically the third party complaint in this case may be admitted as above discussed, however, since the cause of action accrued on March 25, 1980 when the Monetary Board ordered the General Bank to desist from doing business in the Philippines while the third party complaint was filed only on June 17, 1987, consequently, the action has prescribed. The third party complaint should not be admitted.

WHEREFORE, the petition is GRANTED. The decision of the respondent Court of Appeals dated September 5, 1988 and its resolution dated November 9, 1988 denying the motion for reconsideration filed by petitioner are hereby reversed and set aside and declared null and void, and another judgment is hereby rendered sustaining the orders of the trial court of February 29, 1988 and April 18, 1988, denying the admission of the third party complaint. No pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 42-49, Rollo; Justice Rodolfo A. Nocon was ponente, and Justices Alfredo Marigomen and Fernando A. Santiago, concurring.

[2] Pages 51-57, Rollo.

[3] Docketed as CA-G.R. SP No. 14759.

[4] Page 48, Rollo.

[5] Page 18, Rollo.

[6] Section 12, Rule 6, Rules of Court; see also Annotations, 25 SCRA 651 (1968).

[7] Moran, Comments on the Rules of Court, 1979 ed., page 278.

[8] Page 43, Rollo.

[9] Page 55, Rollo.

[10] Page 66, Rollo.

[11] 77 Phil 181 (1946).

[12] Ibid, page 183.

[13] Page 48. Records in CA-G.R. SP No. 14759.

[14] Pages 23-29, Rollo.

[15] Articles 1146 and 2176, Civil Code.

[16] Page 23, Rollo.

[17] That principle of law by which an act done at one time is considered by a fiction of law to have been done at some antecedent period. It is a doctrine which, although of equitable origin, has a well recognized application to proceedings at law; a legal fiction invented to promote the ends of justice or to prevent injustice and the occurrence of injuries where otherwise there would be no remedy.

The doctrine, when invoked, must have connection with actual fact, must be based on some antecedent lawful rights. It has also been referred to as "the doctrine of relation back." (2 CJS 1310)

[18] Article 1146, Civil Code; PauLan, et al. vs. Sarabia, et al., G.R. L-10542, July 31, 1952.

[19] 137 SCRA 314 (1985).

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